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Inheritance and family conflicts: Exploring asset transfers shaping intergenerational relations

Introduction

In contemporary societies with slower economic growth and increased rates of home ownership, intergenerational transfers of wealth are of increasing importance for families. In the UK, the value of estates passed on death increased from £31 billion to more than £77 billion (in 2013 prices) between 1984 and 2013 (own calculations based on Karagainnaki and Hills 2013; HMRC 2016) and the value of *inter-vivos* transfers (lifetime gifts) specific to parents helping their adult children purchase their first home was estimated to be as high as £2 billion annually (Humphrey and Scott 2013). In Europe and beyond, there is also a wealth of evidence on the increasing scale and importance of inheritance and lifetime gifts between generations (Albertini and Kohli 2013; Beckert 2008; Helderman and Mulder 2007). The existing studies on inheritance and asset transfers tend to focus on the advantages of such transfers, for example, parents helping their adult children in times of economic hardship or to acquire their first home (Cox 2003; Izuhara and Forrest 2013). It is evident that a relatively small gift such as a sum of money to pay off a debt could have a major impact on adult children in need (Joseph *et al.* 2015), while early receipt of a more substantial transfer can enhance the social and financial capital of adult children leading to upward social mobility.

Transfers of home ownership and financial assets do transmit opportunities and advantages from one generation to another. This is the case in the neoliberal policy context where individual responsibility has been emphasised through access to more privatised consumption and services, although many new households are now excluded from access to home ownership. The existing research has also revealed, however, that assets acquired through intergenerational

transfer have become a major source of social stratification between families more than income inequalities (Spilerman 2000; Piketty 2014).

Despite the positive impact that asset transfers may bring to beneficiaries, however, inheritance can cause stress, disputes and dissatisfaction among family members. It can also provide an opportunity for the expression or the accentuation of tensions which have already existed in families. The impact of such transfers is thus not simply as either positive or negative, but is often more complex involving different functional dimensions (financial, practical and emotional impact) and can affect different members differently. For example, someone's gain may be another's loss within the family. Emotional stress of inheritance may outweigh its financial benefit.

This article takes into account a multi-dimensional understanding of family relations including relational (e.g. family solidarity, conflict and ambivalence), functional (e.g. transfers and exchanges of accommodation, financial assets and non-material support), and structural aspects (e.g. vertical and horizontal relations, in-laws, step and common-law relations) (Finch 1989). In order to fill a gap in the existing literature, it will explore the topic of intergenerational transfer from the perspective of family complexity and dispute. Our methodological innovation is to use court case data to gain sociological insights into otherwise hidden family disputes to advance theoretical understanding in intergenerational relations. In addition and complementary to socio-legal scholarship, the article offers court case samples as in-vivo generated social data which other conventional data sources such as surveys or interviews cannot provide. The aims of the article also include developing a qualitative thematic analysis of asset transfers over the generations, which cause or accentuate disputes in families; and then

to explore how such family conflicts are embedded within a wider family history and established social and institutional systems.

This article begins with reviewing the relevant theoretical debates surrounding intergenerational relations such as family solidarity and conflict. It is salient to understand how actual or prospective asset transfers within families enhance or reduce power, control or place responsibilities on its members, which continue to shape their relationships. It then moves on to examine the social and institutional systems in England in which the transfer of assets take place, before we explain our data and methodology. Due to significant policy variations within the UK, we concentrate our empirical analysis on England. Drawing largely on selected court cases, the main body of the article will thematically analyse how asset transfers generate or express conflict among family members. We will use the three-fold framework of contested intentions of transfers, challenged distributions of assets, and unexpected timing of transfers for analysis. Finally, it concludes linking the findings to broader socio-legal and policy issues.

Intergenerational transfers and family relations

Inheritance shapes family relations not only by providing material and financial support, but also through symbolic practice and moral reasoning (Finch and Mason 2000). The structure and function of family relations have multiple dimensions. Within families, generations provide or exchange not only material and financial resources, but also other types of support: structural (providing accommodation), instrumental, associational (contact among members), consensual (sharing opinions) and expressive (emotional and moral support such as offering love, pride and status) (Finch 1989; Lawton *et al.* 1994). Each family may practice their own

support mechanism and form their own expectations around family support although it is often governed by broader social norms and system.

A large and growing body of literature confirms that the relationships between family members where support is provided and exchanged are the source of both solidarity and conflict (Bengtson and Harootyan 1994; Arber and Attias-Donfut 2000; Brannen 2006). While the solidarity model focuses on family cohesion and consensus as an important element of intergenerational relations, the ‘family conflict model’ has been developed to challenge the normative aspect of such family solidarity, resulting in a combination of the two models that is vital to understand family relations (Katz and Lowenstein 2010). Moreover, further research revealed that interpersonal relations and individual agency of families did not exist alone but were constantly influenced by and interacted with macro-level social economic structure and public policy (Walker 1996). Intergenerational solidarity and transfers are partly a response to the nature of the welfare state such as pension schemes, health and social care. This is highly relevant to intergenerational relations shaping and being shaped by transfers of family assets since such practice is governed by existing laws and social policies. The concept of intergenerational ambivalence, which is more sensitive to the micro-macro interaction, has been added to the existing dichotomous framework of solidarity and conflict for understanding the increasingly complex and dynamic nature of contemporary family relations (Connidis and McMullin 2002; Luescher and Pillemer 1998).

The ownership of assets has been widely recognised to provide autonomy and control to asset holders in society (Sherraden 1991). The asset ownership and transfer potentials can influence family relationships, especially when family generations share resources such as residence or income-generating activities including family business. Support exchange based on rights and

responsibilities is an important concept as well as the altruistic motives behind intergenerational support. While transfers can flow from the wealthy party to those in need (based on altruistic motivations), the ‘interpersonal contract’, albeit not written or legally binding, are usually bound by strong social norms that may define filial obligations of providing support between generations (Izuhara 2010). The dichotomy of such normative (helping the most in need despite the least likely to repay) and self-interest (transfers based on exchange) orientations of families can be characterised as a ‘moral economy’ (Silverstein et al 2012). This perspective conceptualises the socialisation of children as a moral capital investment and the family as moral economy within which ‘parents inculcate their children to filial beliefs that redound positively to the parents in the form of future intergenerational support’ (p.1258). Family practices are indeed built upon certain expectations around who provides what support and resources; as well as the idea of what constitutes ‘fair’ in distribution of resources and responsibilities among family members. Both dependency and inter-dependency therefore represent family relations.

Adding to the complexity of family relations is the emergence of ‘new’ families including re-constituted families following divorce, separation, remarriage and re-partnering (Silva and Smart 1999). This phenomenon illustrates diversified family formation, structure and relationships, which are increasingly common in contemporary societies (Oláh 2015). Alongside, there is a continuous growth of cohabitations. Such trends produce ambiguous lines of rights and responsibilities, dependence and independence among wider family members, requiring constant negotiation. Divorce and separation could bring families closer together creating dependency on intergenerational relations (about 8% of divorcees move back to the parental home compared to less than 1% of married couples, Feijten and van Ham 2010: 495). However, divorces can also create more distance between members both physically and

emotionally such as reinforcing a strong desire for older parents of divorced children to remain independent (Dimmock *et al.* 2004). As Ganong and Coleman (2010) argue, such trends are likely to produce different patterns of family relations between different ties of biological, step and cohabiting relations as well as between resident and absent members within and beyond households.

Locating intergenerational transfers in the socio-institutional system

There has been growing recognition that socio-economic and institutional systems shape intergenerational transfers which impact on families (Albertini and Kohli 2013; Izuhara 2010). Despite shared global pressures of population ageing, changing families, economic development and welfare retrenchment, family practices including asset transfers tend to have distinctive national characteristics, and thus the nature of and response to the negative impact and outcomes on family members have compelling international variations. This is largely because different laws and institutions govern and shape family practice including intergenerational transfers of assets, and different social norms tend to mould people's attitudes and behaviours.

Inheritance law, intestacy rules¹ and taxation system are important determinants in how individuals' assets are distributed after their death. In England, in terms of the law relating to succession which defines the distribution of assets, the dominant principle is 'testamentary freedom' as individuals are relatively free to leave their assets as they wish under a valid will (subject to rules regarding capacity, revocation, formalities or undue influence). In principle, in England people have the ability to leave their whole estate to anyone as long as they make a will as set out in the Wills Act 1837 (Humphrey *et al.* 2010). However, most inheritance is

passed onto spouses and children, divided equally among siblings, reflecting the importance and attachment to lineage (blood relations), tradition, the continuity of responsibility and the nature of relationship (Finch and Wallis 1994; Douglas *et al.* 2011). Under the Inheritance (Provision for Family and Dependents) Act 1975, the deceased's direct family members (spouse/civil partner, former spouse/civil partner, child, cohabitant, step-child or other dependants) are eligible to apply to the court on the ground that the disposition of the estate effected by the will or the law relating to intestacy does not make 'reasonable financial provision' for the applicant (Douglas 2014). As Douglas (2014) argues, however, such family provision is discretionary and shifting ideas about 'families' and 'obligations' are salient to how disputes under this are determined. For example, judges in the Family Division may focus on the details of relationship between claimant and deceased considering moral obligations and shared family norms, while those in the Chancery Division may be more concerned with the analysis of the legal provisions (Cownie and Bradney 2003). Different outcomes of court cases indeed highlight the myth of testamentary freedom.

According to a UK-wide survey in 2009, making a will is a common practice among older people in England and Wales (82% of those aged 75 and over had a will), but not across the population as only around one-third (37%) of the total respondents had a will (Humphrey *et al.* 2010). Widowed and married respondents were more likely to have a will compared to their cohabiting and single counterparts. Women (54%) more than men (45%) intended to make a will partly due to the longer female longevity. Women often make the final decision regarding the disposal of assets (Hasson 2013). The intestacy rules, set out by Section 46 of the Administration of Estates Act 2015, are important to prescribe a hierarchy of preference in terms of who receives what proportion of the deceased's assets. The intestacy provisions were revised in 2014 to the benefit of a surviving spouse or civil partner. Under the Inheritance and

Trustee's Powers Act 2014, where the deceased leaves no issue (e.g. descendants), the residuary estate will pass to the deceased's spouse or civil partner absolutely. Where there are surviving children (either adult or dependent), the spouse or civil partner will take a 'statutory legacy' of £250,000 and a life interest in half the remainder of the estate. If there are no children, but there are surviving close relatives, the spouse or civil partner receives £450,000 and half the balance absolutely (Douglas et al., 2011; Law Commission, 2009). Moreover, there is little awareness among cohabiting couples about the lack of entitlement to a share of their partner's estate under the current intestacy rules. Under the Inheritance (Provision for Family and Dependents) Act 1975, claims of cohabiting partners are limited to the provision of maintenance (Humphrey *et al.* 2010; Rowlingson 2016) and this is the area which the Law Commission (England and Wales) has suggested reforms.

The taxation system is where the social redistributive mechanism interacts with intergenerational transfers. By definition, the UK operates an 'estate' tax as the descendants are taxed, not beneficiaries. Inheritance tax is paid on estates worth over a certain threshold when someone dies.² The British law also favours *inter-vivos* gifts as they are tax-free if set up seven years prior to someone's death. Trusts are increasingly used as a family strategy to avoid paying substantial inheritance tax. Despite the common perception, however, only a small minority of estates are currently subject to inheritance tax: only 2.9% of estates (15,976) in 2011/12 were taxed (HMRC 2014). Since 2007, married couples and registered civil partners (but not cohabiting couples) can increase the threshold on their estate (up to £650,000 in 2014/15) when the second partner dies (Rowlingson 2016).

Furthermore, social norms and housing markets also combine with the above institutional factors to produce distinctive patterns and outcomes of family wealth transfers. Despite the

testamentary freedom in England, it is a common practice in will-making to leave assets to a surviving spouse and then to divide equally among children (Finch and Mason 2000). The survey on will-making (Humphrey *et al.* 2010) also revealed people's attitudes to inheritance emphasising the importance of keeping assets within the nuclear family and sharing equally among children.

There are other key factors which shape the outcomes of transfers. House price volatility contributes to rising inequalities of wealth holdings among individuals and households (Hills *et al.* 2013). Increased longevity contributes to delayed transfers, while equity release schemes can reduce transferrable amounts (Fox O'Mahony and Overton 2015). Overall, the number of individuals who inherit their family assets has not yet grown as much as it was predicted in Britain (Holmans 2008). For example, Karagiannaki and Hills (2013) show that the receipt and amount of inheritance and *inter-vivos* gifts vary strongly by socio-economic backgrounds. A general trend is that the higher the educational achievement, income, financial and housing wealth, the higher the likelihood for individuals to receive an inheritance and the higher the amounts transferred.

Data and Methods

Our empirical data were drawn from recent court cases involving inheritance and wills in England. A systematic search was conducted on the case law³ database (Westlaw UK) for 'inheritance' and 'probate disputes'. Search terms used were (*inherit* OR probate*) AND *dispute* for the period between 1985 and 2014. We retrieved relevant court cases to examine the incidence particularly involving family disputes. In the UK, as Figure 1 demonstrates, there has been a substantial annual increase in reporting court cases involving our search terms over

the last three decades. Several factors can be considered for the increase: 1) the rise of the net values of estates may have brought cases to court; 2) a changed case reporting practice (until the late 1990s higher court cases and landmark decisions were predominantly reported compared to the current more neutral reporting system); and 3) family relations have become more complex with divorce and remarriage which has led to more disputes. Due to the different inheritance laws found in the regions of the UK, the sample was drawn only from English cases for analysis.

[Figure 1 around here]

From the 2014 database, we retrieved 92 British cases, out of which we selected 32 English cases which were subject to family disputes over intergenerational financial transfers. The case records typically contained socio-demographic information (name, age, relationship of conflict parties), object of conflict (including asset values) and a detailed background of the events. The data were analysed on a case basis, using qualitative content analysis and deductive coding strategy in MAXqda. Key characteristics of each case were recorded in a spreadsheet to analyse incidence and distribution of conflict parties, type of transfer and object of conflict. Based on the academic literature, we initially drew a matrix of ‘negative effects of intergenerational transfers’. The analytical dimensions to differentiate the categories included negatively affected party, intentions, distribution of assets and timing. In the process of clustering cases within initial categories, the matrix was further developed by adding, removing and merging categories. Moreover, this is not a discrete matrix of mutually exclusive categories, dimensions of dispute can overlap as discussed in the findings (see Table 2).

Court cases are not often used as a data source in family sociology. Reported court cases, however, provide rich data and ethical advantages (see for instance Harris-McKoy *et al.* 2014; Hartog 2012). The data are publically available and give access to hard-to-reach demographics. Claims of conflict between parties can be studied without seeking their consent. The detailed information about the background, relationships and events are also often available. Like the study of will, however, this dataset has some epistemological limitations. As Finch and Mason (2000) highlight, the study of wills could only reveal ‘who was *included* in a will’, not those who were excluded from it (which is more likely to be a source of contention and relevant to the aim of our research). Reviewing reported court cases, on the other hand, clearly reveals the disputes that have occurred in families but includes only those which were brought to a court (which may be subject to wealthy families, involving high transfer amounts or extreme cases of violence and exploitation) and only ‘reported’ cases (as those in the lower courts are much less likely to be reported). As previous studies point out (see Izuhara 2009), however, there exists dissatisfaction and perceived injustice regarding asset distribution among family members, which are left without any formal appeal. Moreover, case records are full of legal jargon and judicial reporting practices which may not be in line with specific research questions. Available information may also be patchy and of varied quality. Nevertheless, this is a valuable source of data since the rich qualitative information through the innovative data collection captured the representative sample of inheritance conflicts of contemporary English families. It sheds light on the complexity of family relations and family practices over asset transfers.

Scoping family conflicts around inheritance and wills

Negative impact or outcomes, which intergenerational transfers could bring to individual members, vary significantly. In this article, we define what constitute ‘negative’ broadly to

cover a range of asset transfer types. While transfers involve something of financial value, the negative impact is not confined to financial outcomes but includes practical, psychological, and emotional dimensions. Direct, indirect and non-transfers over generations are all applicable, commonly vertical ties between parents and their adult children. Transfers can skip a generation and occur between grandparents and grandchildren (Kohli 1999). While transfers occur across generations, they may cause negative impact on horizontal family relations between siblings or among wider kin including aunts, uncles, cousins and step-relations. Also, transfers out of the family lineage can be challenged by ‘disinherited’ family members. Moreover, transfers typically involve giving and receiving of material and financial assets such as savings, investments and housing assets. Provision of personal care, practical support, emotional and moral support are included in the analysis if it plays a significant role in shaping the decision-making processes and outcomes of asset transfers within the family.

It is thus important to note that the impact of intergenerational transfers can be complex and often not one-dimensional enough to define or describe any transaction as either ‘negative’ or ‘positive.’ In a dyadic exchange, someone’s loss could be another’s gain within a family and would become more complex if more family members were involved. Perceptions of ‘negative’ and ‘positive’ transfers are also highly subjective. One party may interpret a transfer as a gain, while another party perceives the same transfer as negative. For example, while increased family support and dependency could be perceived as ‘positive’ in the sense of strengthening filial obligations through intergenerational reciprocity, a loss of autonomy can be considered as a ‘negative’ outcome. Moreover, negative feeling is not always towards the testators (e.g. older parents) but could also be towards beneficiaries (e.g. siblings). In addition, any particular transfer should not be considered as a one-off transaction, but instead needs to be contextualised in wider family history, the quality and frequency of contacts or various support

provision to explain why people form particular views and expectations under those circumstances.

Empirical analysis of inheritance and family conflicts

The selected 32 court cases demonstrated well how asset transfers could generate, express or accentuate conflicts, tensions and dissatisfactions among family members. For 21 out of the 32 cases, we have records of the financial value at dispute. Conflict sums ranged from £18,000 to as much as £350 million but the average was £12.7 million. This indicates the reported court cases are skewed towards very wealthy families. The median of £293,000 may provide a better estimate of the typical inheritance conflicts in contemporary English families. The wide range obfuscates that smaller sums often represent the entire estate and could impact significantly on the quality of life of people who experience financial abuse or are left out from inheritance. According to the cases reviewed, the lower sums were mainly cash savings; medium estates around the median value were often the family home or farm land, while higher amounts included business shares and extended property portfolios beyond family residence.

For 28 cases we had specific information about the object of conflict, the dominant category of which was the entire estate. Other frequent objects were farm land, family home, cash, and to some extent, business shares that featured strongly in disputes around the entire estate. A single case each on ‘who is liable for tax (capital gains, inheritance tax)’, ‘the existence of trusts’ and ‘complex dispute about international estates’ was also found in the sample. It was also noteworthy to examine the relationship between (main) conflict parties. Among the cases, family conflicts existed in both inter and intra-generational relations (see Table 1). Disputes were filed against siblings often over shares of the estate. The sample also included disputes

between ex-spouses over the legitimacy of claims on post-divorce inheritance. Moreover, family disputes over probate and inheritance extended to include those against a third party (non-family members) such as charity organisations. There were cases of conflicts of the state with the estate (children/trust/charity) concerning who would be liable to pay inheritance tax or capital gains tax, should an estate be sold some time after the inheritance was received.

[Table 1 around here]

Drawing largely on the existing literature and our own data, we map out transfer categories, identifying the nature of disputes, which parties are likely to be involved, and the potential impact on givers and recipients in order to develop the framework for analysis (see Table 2). Placing each of the 32 sample cases into one of the above categories was not straightforward (see Figure 2). When cases overlapped two or more, the dominant category was selected. New and emerging categories were integrated in the revised framework. Nevertheless, the sample clearly provided rich examples for the analysis including motivations behind transfers and perceived injustice regarding the distributions of assets. For the analysis, we clustered six categories into three conceptual themes: contested intentions of transfers (forced transfers, obliged transfers, unwelcome transfers), challenged distributions of assets (unequal shares, non-transfers, among complex families), and unexpected timings (early and delayed transfers). We excluded illegal transfers from the analysis since this category predominantly deals with conflicts with the state instead of between family members.

[Table 2 around here]

[Figure 2 around here]

Contested intentions of transfers

Contested intentions of transfers typically involve categories such as forced, obliged and unwelcomed transfers. We identified ‘forced transfers’ as one of the most frequent cases in our sample. Forced transfers often occur during the lifetime of victims as *inter-vivos* transfers or through forcing testators to change their will. Such manipulated transfers and undue influence on wills tend to be revealed only after the death of the testators. Common cases in forced transfers are associated with financial elder abuse (see Setterlund *et al.* 2007) when mental incapacity of older people is exploited by particular family members (potential beneficiaries) for their interest. Such forced transfers are often accompanied by undue influence on will formulation and dependency of frail older people. One case (*Hart v Burbidge 2014*) highlighted typical undue influence. A daughter (A) took care of the financial affairs of her mother (B) while caring for her and transferred the sale of her two residential properties and financial assets of a bank account totalling £700,000 into her own accounts. All transactions took place while B had limited mental capacity, against the advice of B’s solicitor and without knowledge of both A and B’s siblings. All in all the daughter had been very creative in obfuscating her undue influence, but still all these transactions came to light after the mother’s death. Given the prevalence of dementia in ageing contemporary society, testamentary capacity when older people make or alter a will has become a major issue. This has led to more reports of familial disputes around inheritance being resolved through Statutory Wills⁴ executed by the Court of Protection (Harding 2015).

Undue influence refers to exploiting a position of power over another person such as in the process of will formulation of mentally incapacitated family members. As undue influence is an equitable remedy, it features strongly in the discussions of the cases. The motivations behind this type of transfer are neither altruistic (filial obligations) nor reciprocal (exchanging support

over time), but the transfers are largely the result of power relations. While older testators have become increasingly vulnerable with a decline in their mental capacity, potential beneficiaries of transfers legitimate their power through influencing a will. It also demonstrates how intergenerational relations often sit on the delicate balance of autonomy and dependence, which can be accentuated with age. Such forced transfers were mainly conducted by close relatives such as adult children, but also by more distant relatives including sons/daughters-in-law and grandchildren. In such scenarios, cash is transferred to personal bank accounts or family homes are signed over. Older people with mental incapacity residing at their own home can be more vulnerable due to their declining abilities to identify and manage risks including personal finance. This highlights the importance of safeguarding as well as a guardianship order (a court appointment which authorises a person to act and make decisions on behalf of an adult with incapacity) to respond to the financial abuse (Manthorpe *et al.* 2012).

In two similar cases, families were in dispute with a third party. Their wills were changed shortly before a terminally-ill testator died under the strong influence of a close friend and business partner who was then challenged by family members (*Smyth v Romanes's Executors*; *Garnham v Millar*). It is not uncommon that older people develop a strong attachment to their carer and willing to leave their assets to them as much as their choice of charities. Such cases come to the attention often only after the health of older people has deteriorated or their death, and when other beneficiaries of the estate (not always but often adult children) realised that they had received a smaller than expected share of parental assets or nothing at all. As exchange theory shows, rewarding support contributions can be part of the basis for asset distributions as the 'generational contract' based on rights and responsibilities strongly features in the transfer motivations of some individuals. The study on attitudes to will making (Humphrey *et al.* 2010), however, identified the scepticism among the general public about the recognition

of carers. No strong support on the possible entitlement of carers to be included under the intestacy rules unless carers are blood relatives of the deceased, served longer duration of care or their dependency status (e.g. sharing accommodation). This again exhibits the importance of family continuity and the concept of families as the ‘moral economy’ in inheritance practice. Unwelcome and obliged transfers represent transfers of assets accompanying emotional or practical burden. Such cases exist but may not always appear in the court and are consequently rare in the sample. For unwelcomed transfers, for example, a widow (Gill) inherited her husband’s shares of a business which he ran with his brother (*Barnsley v Noble*). The business had two major parts: a property portfolio and a business of gaming halls (referred to as the ‘Nobles’). The judge reported that “Gill did not personally hold any significant interest in Nobles”. For Gill the business was unwelcomed and the shares should be split after her husband’s death between her and her brother-in-law although what were ‘fair’ splits of the business shares proved contestable.

On the other hand, obliged transfers tend to have cultural connotations and are often practiced based on the idea of family continuity. The transfer of the responsibility for grave and ancestor worship, for example, requires a long-term commitment with accompanying cost which features strongly in the East Asian context (Izuhara 2009). There is not such a case found in the English sample disputing over a symbolic transfer and long-term obligations. However, in a Scottish case (*C v M*), an elderly mother and a daughter-in-law disputed over the funeral arrangements of their deceased son and husband, respectively. The wife was the beneficiary of the will, but the mother was the executer. There were tensions in the in-law relationship beforehand, and the mother exploited her position of power in the will, which was actually not intended by the son, to demand a more traditional funeral instead of a colourful gathering which the son had hoped for. The daughter-in-law was obliged to arrange the funeral, but tensions

which existed before turned into conflicts over the notion of ‘what was the right funeral’. This is an example of contested tradition and personal preferences in family practice that shows the hierarchy of vertical and horizontal family ties. Overall, the lack of reported court disputes around cultural traditions could also be an indication of a rather liberal interpretation of funeral arrangements and little entrenched institutions of obligations towards the deceased afterlife in England. It could also be due to limited use of courts to solve family conflicts by ethnic minority families. As figure 2 indicates financial disputes outweigh cultural conflicts in the sample.

Challenged distributions of assets

Unequal divisions of assets are common in many societies with the strong tradition of male/one-child succession and the traditional gendered family system (see Izuhara 2009). ‘Unequal share’ here includes rejection of potential family beneficiaries in wills so that these members do not receive any inheritance. In contemporary English society, such unequal divisions can often cause tension and conflicts among siblings since, despite the testamentary freedom, the cultural norm is equal divisions between siblings. However, as Silverstein et al (2012) argue families as moral economy, the transfer motivations are not only driven by such norms but are also based on reciprocal arrangements (rewarding early contributions) and altruistic orientations (emotional closeness to the deceased). At the same time, the lack of contribution or contact may act against potential beneficiaries in receiving their share of inheritance.

Conflicts around shares or no share ultimately involve potential beneficiaries challenging a will or claiming an intestate estate (assets left without a will). Such conflicts surface when potential beneficiaries challenge several wills of the testator, subsequent codicils or intestate estates. In

the relevant cases in the sample, each party tried to refer to a particular will or statutory intestacy rule in order to maximise their benefit for inheritance. *Regina v Clemo*, which is a criminal case, is a good example where the two conflict parties brought forward forged wills and other documents to unduly support their claims of another distribution of the estate. Although the underlying conflict was about their subjective understanding of the 'right' share of the estate, in court these battles were fought through legal challenges of wills (e.g. signatures, dates and other errors).

The disputes were not only between family members. In two cases (*Loring v Woodland Trust*; *Tadros v Barratt*), the family beneficiaries were in dispute with a charity as a third party beneficiary. For tax reasons, the children could receive the maximum tax free amount, while any remaining net asset above the legal threshold could go to the named charities. As the tax threshold was increased after signing the will, the charities received less than the anticipated share and challenged the distribution in court. All of these cases were dominated by conflicts among siblings, although in one case this involved an extended family business with uncles and cousins. Within this category falls the highest recorded estate (£350 million: *Sabbagh v Khoury*) and another very substantial estate (£42 million *Hart v Burbidge*), but also a rather modest estate of £70,000 (*Marley v Rawlings*). These cases demonstrate that there are many pitfalls to formulate a water-proof will. Family conflicts arise within the institutional system and this is the area which the public awareness needs to be promoted in relation to will making. Disputes about unequal shares sometimes include one party who received no inheritance. In court, this means that the wills are challenged or intestacy rules questioned. Such decisions by testators are often embedded in the wider family history and often represent the quality of family relations as well as the unfulfilled expectations regarding filial obligations. Being disinherited often predates previous conflicts and emotional distance between testators and

potential beneficiaries. One will recorded such tension over time very bluntly (*Wright v Waters*). A mother (and with consent of her late husband) disinherited her daughter due to previous conflicts and left the majority of the estate to her son and his family. Her decisions were stated clearly in the will:

“I do not wish my daughter Patricia or her daughter Victoria to inherit any part of my estate. The reasons are:

1. My daughter has already taken without my consent £10,000 of my savings.
2. My daughter has been a constant source of trouble to me and my husband for many years.
3. There has been no contact for almost 9 years. She has shown no interest in my welfare whatsoever.”

The court ruled that the will was set up correctly and the daughter had no entitlement to her mother’s estate. Such interpretation does not always apply to similar cases. Cases, where parents reject children in their will, appear to be quite common as the recent high profile *Ilott v Mitson* (2015) case indicated. A 54-year old woman who was rejected by her mother in the will eventually won £164,000 inheritance by way of receiving ‘reasonable family provision’. The mother who died in 2004 left her entire estate to three animal charities, with which she had little connection, and disinherited her only daughter who left home when she was 17. The Court of Appeal ruled that the daughter should have received a ‘third of the estate’. In this case, despite the lack of reciprocity or closeness in the relationship, moral responsibility of parents is given more weight in court than their testamentary freedom and also filial obligations of adult children. Like the cases on forced transfers, these cases reveal long-term conflicts

between family generations, and the subsequent lack of communication often accompanied by physical and psychological harm in the past. One applicant disputed being disinherited following the murder of his wife. Suffering from a delusional disorder that led to the murder, the applicant challenged the non-transfer on grounds of mental incapacity unsuccessfully (*Chadwick v Collinson*). Such extreme cases of violence could only be found in the two types ‘forced transfers’ and ‘non transfer’.

We found some evidence for traditional gender roles in family disputes over inheritance. For instance, in *Sabbagh v Khoury*, the father, originally from the Middle East, favoured male heirs in his family business. The daughter of the deceased business man received less than male heirs of the extended family including brothers, male cousins and uncles and thus challenged the unequal distributions using reference to her statutory rights as a beneficiary. The single case indicates that some ethnic minority families may retain gendered cultural practice, although their offspring are more likely to hold contemporary English values and thus challenge the traditional family practice in court.

A considerable number of cases dealt with disputes in complex family relations among divorced couples, step-relations, and cohabiting individuals. Such cases sometimes extend to include extended family members. All these disputes have something in common: disputes on wills or inheritance arising from informal or opaque transfer arrangements; or previous disputes resurfacing after the death of testators. Some cases captured disputes in the previous relationships which carried over after divorce. For example, an ex-husband claimed to have a legitimate right to the inheritance of his ex-wife who was bound to receive her parental assets after their separation (*B v B*). Another case (*Parry v Revenue and Customs Commissioners*) showed a concern regarding a pension fund held by an ex-husband’s company. The ex-wife

feared that the pension fund would fall first in the hands of her ex-husband (father of her children) instead of to her children directly. It is again evident that the nature of family relations is complex and embedded in the family history. Those cases highlighted that past family disputes between spouses were carried over to their post-divorce relations. Unsettled conflicts in past marriage can continue over generations and divide the family after the death of direct conflict parties (ex-spouses).

Within these court rulings, different attitudes and norms towards rights and responsibilities in intergenerational relations were revealed. In principle, there are strong expectations for equal distribution among siblings. Even if farm land is handed over to one beneficiary to guarantee the continuation of the (often agricultural) business, the rest of the estate should be distributed equally among adult children. While on one hand the Inheritance Act defines who is eligible to claim and on what basis. On the other hand, personal wills are the expression of the testators' personal views regarding fairness of division and deservingness to inherit their estate. Their views could then contradict with values and expectations of the younger generation and/or legislations.

Unexpected timings of transfers

Timing of intergenerational transfers matters. Unexpected timings of both inheritance and *inter-vivos* transfers could negatively affect family members, both givers and recipients, in various ways. 'Delayed transfers' can be associated with the increased longevity of older people (potential givers) but can also represent delaying promised *inter-vivos* transfers of assets in a family business such as farm land. There were some court cases which led to continued financial and emotional dependence of adult children (potential beneficiaries) (*Seward v Seward*; *Davies v Davies*). These cases feature strongly in the law under the term 'proprietary

estoppel'. This means that the potential beneficiaries have acted upon the expectation to receive the business shares and had forgone other financial opportunities. Based on proprietary estoppel, potential beneficiaries can take legal action for their appropriate share. Two cases found in the 2014 sample were all direct disputes between parents and their adult children, and to some extent, involving siblings who might have received a higher share. This would indicate that delayed transfers are more likely to occur in the nuclear family of tight emotional ties, which overlaps with shared financial resources such as a business interest as a foundation of income. For instance, in *Davies v Davies*, the only daughter has repeatedly worked on the farm of her parents for a minimum wage, while she declined other, better paid, career opportunities in farming with the expectation to receive the farm sooner rather than later. Over a long period of almost 30 years, the daughter and her parents had a difficult relationship and had fallen out repeatedly. When her parents reached their retirement age, they sold the farm and disinherited their daughter. On this occasion, the daughter was able to successfully claim proprietary estoppel as she had sacrificed several work opportunities outside the family farm with the expectation to succeed her parent's farm at some point in the future.

In ageing societies with increased longevity, people may face an opportunity cost by inheriting their parental assets late, but inheriting assets unexpectedly early in the life-course can also cause tremendous stress on younger recipients. There was no court case among our sample regarding family disputes involving early transfers. Still early transfer disputes could involve investment of gift not intended by the giver (e.g. parents provide mortgage deposit, but invested in something else). In theory, early transfers are likely to give financial gain to (younger) recipients, which may provide an opportunity for further asset accumulation (although early asset transfer by premature death of parents can also mean parental assets were not fully accumulated). In such cases, negative impact found in this type is likely to be psychological

and emotional, a ‘moral ambivalence’ described by Schaeffer (2014). The US study on inheritance among the mostly highly educated white middle class reveals that some young beneficiaries thought the early inheritance ‘blood money’ in exchange for a parent’s death and thus tried to spend it quickly. The social meaning of inherited financial assets can thus be a contingent, individual compromise (Schaeffer 2014).

Conclusions

The analysis of the relevant court cases clearly highlighted that transfers of assets over the generations could impact significantly on family relations. A range of transfer scenarios were presented which caused, expressed or accentuated disputes, stress and dissatisfaction among family members. In particular, forced transfers and unequal shares of assets among adult children were two of the most serious and frequently occurring types of contention. The cases of forced transfers demonstrated how intergenerational transfers could be used to retaliate or shift the power relationships between family members; and also how family relations often rest on a delicate balance of autonomy and (inter)dependency. Even in the post-modern English society, unequal shares of assets, especially for those families who engage in the land-based economy, are distributed and such unequal distributions often had gender bias. Indeed, individuals tend to form certain views and expectations on inheritance based on the perceived social and institutional systems, which sometimes conflict and contradict with actual decisions of the testators. Such tensions between policies, values, expectations, and cultural modernisation erupt then in legal challenges between family members. In many cases, the analysis revealed that disputes over inheritance practices were embedded in wider family histories. The nature and quality of intergenerational relations, which are tested at the point of asset transfers, usually take time to develop both in terms of solidarity and conflict. Yet, court

cases are a viable and (sometimes) quicker data source to reveal such social tensions compared to traditional sociological research methods. Moreover, our analysis of rare and missing cases (obliged and early transfers, respectively) illustrates the methodological limits and requires stronger triangulation to assess the real incidence of these theoretical negative transfer categories.

Family conflicts are clearly a part and parcel of the inheritance practice in the contemporary society. Our analysis confirmed the ways in which the social and institutional systems interacted with interpersonal family relations to produce the distinctive patterns of disputes in intergenerational transfers of assets. Individuals do not necessarily contain accurate information and knowledge about the laws including the intestacy rules. Different interpretations could be also applied to different cases, which create ambiguity. In many contemporary societies, family structures and relations underwent rapid change and have been increasingly diversified yet existing institutional and cultural systems may not be effectively capturing such changing family norms and practices in the area of intergenerational transfers.

Finally, there is an issue about how we could prepare for and respond to perceived risks associated with asset transfers over generations. This is an important question as in the neoliberal policy context, individuals are increasingly expected to become their own financial agent. Safeguarding vulnerable older people as well as a guardianship order (a court appointment which authorises a person to act and make decisions on behalf of an adult with incapacity) are for example important to respond to or minimise the potential financial abuse from close relatives and beyond. Formulating a water-proof will is another recommendation to avoid potential disputes among family members. In the process of changing wills, it is important that the new will or revised will (codicil) explicitly revokes any old wills when family circumstances and personal preferences have changed. This research indeed highlighted

the importance of raising the public awareness of financial education and will-making especially among home owners.

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¹ When a person dies without leaving a valid will, their property (the estate) must be shared out according to certain rules. Such rules are called intestacy rules.

² It is £325,000 for single individuals in 2014/15 and 40% on the amount over the threshold is taxable.

³ Case law is reported decisions of appeals courts and other courts which make new interpretations of the law, and thus can be cited as precedents.

⁴ Statutory wills are last will and testaments authorised by the Court of Protection under the Mental Capacity Act 2005. Such a will can only be made when someone lacks the mental capacity to make a normal last will for him or herself.